

CHAPTER 32-02 QUALIFICATIONS OF SURETIES

32-02-01. Qualifications of sureties - Personal. Any person to be qualified to become surety on any bond or undertaking required in any court must be a resident and a householder or a freeholder in the state, and an affidavit to that effect must be annexed to the bond or undertaking. Such affidavit also shall state an amount each surety is worth above the surety's liabilities and exemptions, and the total worth of such sureties must be double the sum named in the bond or undertaking.

32-02-02. Exception to sureties. Any party for whose benefit a bond or undertaking is required in any proceeding, within three days after service of a copy thereof, may except to the sufficiency of the sureties thereon. In such case the party furnishing such bond or undertaking either may cause the sureties to justify as hereinafter provided or to furnish a new bond or undertaking subject to like justification of sureties.

32-02-03. Notice of justification. If the party who furnished the bond excepted to elects to cause the party's sureties to justify, the party, within three days after receipt of the notice of exception, shall give a written notice to the party excepting, of the justification of the sureties of the party who furnished the bond before the judge at the court in which the proceedings are filed, by appearance at a specified time and place, the time to be not less than three nor more than ten days thereafter.

32-02-04. Attendance of witnesses. The judge of the court before whom a justification proceeding is pending may issue and cause to be served subpoenas to compel attendance of any necessary witnesses, including the sureties excepted to, at the time and place set for such justification proceeding, or may permit their depositions to be taken in lieu of personal appearance.

32-02-05. Examination of sureties. For the purpose of justification, each of the sureties excepted to shall appear before the judge personally or by deposition at the time and place mentioned in the notice and may be examined on oath on the part of the excepting party touching the surety's sufficiency in such manner as the judge of the court may think proper. The examination shall be taken stenographically. The costs of the justification shall be paid by the party offering the sureties, if the same are found not sufficient, but if sufficient, then the party excepting shall pay such costs. Such costs shall be taxed by the court in which the action is pending as other costs are taxed.

32-02-06. Finding by judge. The judge of the court shall annex the examination to the undertaking, endorse the judge's finding of sufficiency or insufficiency thereon, and cause the same to be filed in the office of the clerk of the court in which the action is pending.

32-02-07. New bond may be furnished. If the judge finds the sureties insufficient, the party furnishing the bond or undertaking may have three days within which to furnish a new bond or undertaking, the sureties on which also shall be subject to justification as provided herein.